

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Pine Tree Cablevision Associates)	File No. EB-02-TS-120
)	
Operator of Cable Systems in the States of:)	
)	
Maine, New Hampshire and South Carolina)	
)	
)	
Request for Waiver of Section 11.11(a) of the)	
Commission's Rules)	

ORDER

Adopted: July 25, 2002**Released: July 30, 2002**

By the Chief, Technical and Public Safety Division, Enforcement Bureau:

1. In this *Order*, we grant Pine Tree Cablevision Associates ("Pine Tree") temporary, waivers of Section 11.11(a) of the Commission's Rules ("Rules") for 22 cable television systems in the above-captioned states. Specifically, we grant temporary, 24-month waivers of Section 11.11(a) for two cable television systems in Attachment A and temporary, 36-month waivers of Section 11.11(a) for 20 cable television systems in Attachment A. Section 11.11(a) requires cable systems serving fewer than 5,000 subscribers from a headend to either provide national level Emergency Alert System ("EAS") messages on all programmed channels or install EAS equipment and provide a video interrupt and audio alert on all programmed channels and EAS audio and video messages on at least one programmed channel by October 1, 2002.¹

2. The Cable Act of 1992 added new Section 624(g) to the Communications Act of 1934 ("Act"), which requires that cable systems be capable of providing EAS alerts to their subscribers.² In 1994, the Commission adopted rules requiring cable systems to participate in EAS.³ In 1997, the

¹ 47 C.F.R. § 11.11(a).

² Cable Television Consumer Protection and Competition Act of 1992, Pub. L. No. 102-385, § 16(b), 106 Stat. 1460, 1490 (1992). Section 624(g) provides that "each cable operator shall comply with such standards as the Commission shall prescribe to ensure that viewers of video programming on cable systems are afforded the same emergency information as is afforded by the emergency broadcasting system pursuant to Commission regulations" 47 U.S.C. § 544(g).

³ *Amendment of Part 73, Subpart G, of the Commission's Rules Regarding the Emergency Broadcast System, Report and Order and Further Notice of Proposed Rule Making*, FO Docket Nos. 91-171/91-301, 10 FCC Rcd 1786 (1994) ("First Report and Order"), reconsideration granted in part, denied in part, 10 FCC Rcd 11494 (1995).

Commission amended the EAS rules to provide financial relief for small cable systems.⁴ The Commission declined to exempt small cable systems from the EAS requirements, concluding that such an exemption would be inconsistent with the statutory mandate of Section 624(g).⁵ However, the Commission extended the deadline for cable systems serving fewer than 10,000 subscribers to begin complying with the EAS rules to October 1, 2002, and provided cable systems serving fewer than 5,000 subscribers the option of either providing national level EAS messages on all programmed channels or installing EAS equipment and providing a video interrupt and audio alert on all programmed channels and EAS audio and video messages on at least one programmed channel.⁶ In addition, the Commission stated that it would grant waivers of the EAS rules to small cable systems on a case-by-case basis upon a showing of financial hardship.⁷ The Commission indicated that waiver requests must contain at least the following information: (1) justification for the waiver, with reference to the particular rule sections for which a waiver is sought; (2) information about the financial status of the requesting entity, such as a balance sheet and income statement for the two previous years (audited, if possible); (3) the number of other entities that serve the requesting entity's coverage area and that have or are expected to install EAS equipment; and (4) the likelihood (such as proximity or frequency) of hazardous risks to the requesting entity's audience.⁸

3. On March 26, 2002, Pine Tree filed a request for temporary waivers of Section 11.11(a) for 22 small rural cable television systems operating in the captioned states. In particular, Pine Tree requests temporary, 24-month waivers for two of its cable systems and temporary, 36-month waivers for 20 of its cable systems in Attachment A. In support of its waiver request, Pine Tree states that the 22 systems each serve between 12 and 1,234 subscribers. Based on price quotes provided by EAS equipment manufacturers, Pine Tree estimates that it would cost between \$9,500 and \$10,500 to install EAS equipment at each of these systems for a total cost of approximately \$220,000. Pine Tree asserts that the cost of installing EAS equipment at these systems will impose a substantial financial hardship on it and provides financial statements for 2000 and 2001 in support of this assertion. In addition, Pine Tree submits that its subscribers will continue to have ready access to national EAS information from other sources, including its cable systems. In this regard, Pine Tree notes that its subscribers currently have access to national EAS messages on between 39 and 57 percent of all programmed channels. Pine Tree also asserts that its subscribers will have access to EAS information through over-the-air reception of broadcast television and radio stations and other sources.

4. Based upon our review of the financial data and other information submitted by Pine Tree, we conclude that temporary, 24-month waivers and temporary, 36-month waivers of Section 11.11(a) for the 22 systems listed in Attachment A are warranted.⁹ In particular, we find that the

⁴ *Amendment of Part 73, Subpart G, of the Commission's Rules Regarding the Emergency Broadcast System, Second Report and Order*, FO Docket Nos. 91-171/91-301, 12 FCC Rcd 15503 (1997) ("*Second Report and Order*").

⁵ *Id.* at 15512-13.

⁶ *Id.* at 15516-15518.

⁷ *Id.* at 15513.

⁸ *Id.* at 15513, n. 59.

⁹ The 24-month waivers will extend from October 1, 2002, until October 1, 2004 and 36-month waivers will extend from October 1, 2002, until October 1, 2005. Pine Tree also specifically requested waiver of the testing and

estimated \$220,000 cost of EAS equipment for these small cable systems could impose financial hardship on Pine Tree.

5. We note that the Commission recently amended the EAS rules to permit cable systems serving fewer than 5,000 subscribers to install FCC-certified decoder-only units, rather than both encoders and decoders, if such a device becomes available.¹⁰ Based on comments from equipment manufacturers, we anticipate that such a decoder-only system could result in significant cost savings to small cable systems.¹¹

6. Accordingly, **IT IS ORDERED** that, pursuant to Sections 0.111, 0.204(b) and 0.311 of the Rules,¹² Pine Tree Cablevision Associates **IS GRANTED** a waiver of Section 11.11(a) of the Rules until October 1, 2004 for two of the cable television systems listed in Attachment A and **IS GRANTED** a waiver of Section 11.11(a) of the Rules until October 1, 2005 for 20 of the cable television systems listed in Attachment A.

7. **IT IS FURTHER ORDERED** that Pine Tree Cablevision Associates place a copy of this waiver in its system files.

8. **IT IS FURTHER ORDERED** that a copy of this *Order* shall be sent by Certified Mail Return Receipt Requested to counsel for Pine Tree Cablevision Associates, Christopher C. Cinnamon, Esq., Cinnamon Mueller, 307 North Michigan Avenue, Suite 1020, Chicago, Illinois 60601.

FEDERAL COMMUNICATIONS COMMISSION

Joseph P. Casey
Chief, Technical and Public Safety Division
Enforcement Bureau

monitoring requirements of the EAS rules for the 22 systems. We clarify that the waivers we are granting also encompass the EAS testing and monitoring requirements.

¹⁰ *Amendment of Part 11 of the Commission's Rules Regarding the Emergency Alert System*, EB Docket 01-66, FCC 02-64 at ¶ 71 (released February 26, 2002).

¹¹ One manufacturer estimated that an EAS decoder-only system can reduce the cost by 64% over what a cable operator would spend for an encoder/decoder unit. *Id.* at ¶ 70.

¹² 47 C.F.R. §§ 0.111, 0.204(b) and 0.311.

Attachment A

Pine Tree Cablevision Associates

Cable Systems:**Temporary Waiver Granted Until:****Maine**

Jonesport, Maine	October 1, 2005
Cherryfield, Maine	October 1, 2005
Gouldsboro, Maine	October 1, 2005
Princeton, Maine	October 1, 2005
Winter Harbor Navy Base, Maine	October 1, 2005

New Hampshire

Troy, New Hampshire	October 1, 2004
Spofford, New Hampshire	October 1, 2005
Nelson, New Hampshire	October 1, 2005
Stoddard, New Hampshire	October 1, 2005

South Carolina

St. Stephen, South Carolina	October 1, 2004
Hopkins, South Carolina	October 1, 2005
Swansea, South Carolina	October 1, 2005
Lugoff, South Carolina	October 1, 2005
Cottageville, South Carolina	October 1, 2005
Elloree, South Carolina	October 1, 2005
Cross, South Carolina	October 1, 2005
Wagener, South Carolina	October 1, 2005
Hilda, South Carolina	October 1, 2005
North, South Carolina	October 1, 2005
McBee, South Carolina	October 1, 2005
Lamar, South Carolina	October 1, 2005
Jefferson, South Carolina	October 1, 2005